

§ 4.107 Contents of application for exemption from licensing.

(a) *General requirements.* An application for exemption from licensing submitted under this subpart must contain the introductory statement, the exhibits described in this section, the fee prescribed in § 381.601 of this chapter and, if the project structures would use or occupy any lands other than Federal lands, an appendix containing documentary evidence showing that applicant has the real property interests required under § 4.31(c)(2)(ii). The applicant must identify in its application all Indian tribes that may be affected by the project.

(b) *Introductory statement.* The application must include an introductory statement that conforms to the following format:

BEFORE THE FEDERAL ENERGY REGULATORY
COMMISSION

*Application for Exemption of Small
Hydroelectric Power Project From Licensing*

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for an exemption for [name of project], a small hydroelectric power project that is proposed to have an installed capacity of 5 megawatts or less, from licensing under the Federal Power Act. [If applicable: The project is currently licensed as FERC Project No. —.]

(2) The location of the project is:
[State or territory] _____

[County] _____

[Township or nearby town] _____

[Stream or body of water] _____

(3) The exact name and business address of each applicant are:

(4) The exact name and business address of each person authorized to act as agent for the applicant in this application are:

(5) [Name of applicant] is [specify, as appropriate: a citizen of the United States or other identified nation; an association of citizens of the United States or other identified nation; a municipality; a state; or a corporation incorporated under the laws of (specify the United States or the state or nation of incorporation, as appropriate).]

(c) *Exhibit A.* Exhibit A must describe the small hydroelectric power project and its proposed mode of operation. To the extent feasible, the information in this exhibit may be submitted in tabular form. The applicant must submit the following information:

(1) A brief description of any existing dam and impoundment proposed to be utilized by the small hydroelectric power project and any other existing or proposed project works and appurtenant facilities, including intake facilities, diversion structures, powerhouses, primary transmission lines, penstocks, pipelines, spillways, and other structures, and the sizes, capacities, and construction materials of those structures.

(2) The number of existing and proposed generating units at the project, including auxiliary units, the capacity of each unit, any provisions for future units, and a brief description of any plans for retirement or rehabilitation of existing generating units.

(3) The type of each hydraulic turbine of the small hydroelectric power project.

(4) A description of how the power plant is to be operated, that is, run-of-river or peaking.

(5) A graph showing a flow duration curve for the project. Identify stream gauge(s) and period of record used. If a synthetic record is utilized, provide details concerning its derivation. Furnish justification for selection of installed capacity if the hydraulic capacity of proposed generating unit(s) plus the minimum flow requirements, if not usable for power production, is less than the stream flow that is exceeded 25 percent of the time.

(6) Estimations of:

(i) The average annual generation in kilowatt-hours;

(ii) The average and design head of the power plant;

(iii) The hydraulic capacity of each turbine of the power plant (flow through the plant) in cubic feet per second;

(iv) The number of surface acres of the man-made or natural impoundment used, if any, at its normal maximum surface elevation and its net and gross storage capacities in acre-feet.

(7) The planned date for beginning and completing the proposed construction or development of generating facilities.

(8) A description of the nature and extent of any repair, reconstruction, or other modification of a dam that would occur in association with construction or development of the proposed small hydroelectric power project, including a statement of the normal maximum surface area and normal maximum surface elevation of any existing impoundment before and after construction.

(d) *Exhibit B.* Exhibit B is a general location map, which may be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a state agency, enlarged, if necessary, to show clearly and legibly all of the information required by this paragraph. The map must show the following information:

(1) The location of the existing and proposed physical structures of the small hydroelectric power project, including any dam or diversion structure, reservoir or impoundment, penstocks, pipelines, power plants, access roads, transmission lines, and other important features.

(2) The relationship of the project structures to the stream or other body of water on which the project is located and to the nearest town or other permanent objects that can be readily recognized in the field.

(3) A description of who owns or otherwise has real property interests in any tract of land occupied by the small hydroelectric power project or the structures to which it is directly connected.

(4) A proposed project boundary enclosing project works to be exempted from licensing.

(e) *Exhibit E.* This exhibit is an environmental report that must include the following information, commensurate with the scope and environmental impact of the construction and operation of the small hydroelectric power project. See § 4.38 for consultation requirements.

(1) A description of the environmental setting of the project, including vegetative cover, fish and wildlife resources, water quality and quantity, land and water uses, recreational uses,

historical and archeological resources, and scenic and aesthetic resources. The report must list any endangered or threatened plant and animal species, any critical habitats, and any sites eligible for or included on the National Register of Historic Places. The applicant may obtain assistance in the preparation of this information from state natural resources agencies, the state historic preservation officer, and from local offices of Federal natural resources agencies.

(2) A description of the expected environmental impacts from the proposed construction or development and the proposed operation of the small hydroelectric power project, including any impacts from any proposed changes in the capacity and mode of operation of the project if it is already generating electric power, and an explanation of the specific measures proposed by the applicant, the agencies consulted, and others to protect and enhance environmental resources and values and to mitigate adverse impacts of the project on such resources.

(3) Any additional information the applicant considers important.

(f) *Exhibit G.* Exhibit G is a set of drawings showing the structures and equipment, that is, the proposed and existing project works, of the small hydroelectric power project. The drawings must include plan, elevation, and section views of the power plant, any existing dam or diversion structure, and any other principal structure of the project.

[Order 106, 45 FR 76123, Nov. 18, 1980, as amended by Order 225, 47 FR 19056, May 3, 1982; Order 413, 50 FR 11689, Mar. 25, 1985; Order 494, 53 FR 15381, Apr. 29, 1988; Order 533, 56 FR 23154, May 20, 1991]

§ 4.108 Contents of application for exemption from provisions other than licensing.

An application for exemption of a small hydroelectric power project from provisions of Part I of the Act other than the licensing requirement need not be prepared according to any specific format, but must be included as an identified appendix to the related application for license or amendment